



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,041	10/21/2005	Tatiana Maciulis Dip	3129-7506US	8307

24247 7590 01/17/2008
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

EXAMINER

SMITH, RICHARD A

ART UNIT	PAPER NUMBER
----------	--------------

2859

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

01/17/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

Office Action Summary

Application No.

10/554,041

Applicant(s)

DIP, TATIANA MACIULIS

Examiner

R. Alexander Smith

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,45,53-56,63,64,66,73 and 80-157 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 73 is/are allowed.
- 6) ☒ Claim(s) 53,55,56,63 and 64 is/are rejected.
- 7) ☒ Claim(s) 1,45,54,66 and 80-157 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20071113.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1 and 80-157 are objected to because of the following informalities:

Claim 1: "a second compartment" in line 10 should start with --the-- in order to properly refer to its antecedent in line 5.

Claim 45: "sensor" in line 9 should be --indicator--.

Claim 53:

(a) "sensor" in line 10 should be --indicator--.

(b) At the end of line 10, the period should be deleted or changed to another type of punctuation.

Claims 54-56: For each claim, "sensor" in line 1 should be --indicator--.

Claim 63: "sensor" in line 10 should be --indicator--.

Claim 64: "sensor" in line 1 should be --indicator--.

Claim 66:

(a) "sensor" in line 10 should be --indicator--.

(b) "immersedfurther" in line 10 should be --immersed further--.

(c) "shrivel" in line 12 should be --rib--.

Claim 94: In line 2, "first" compartment should be --second-- since it is the second compartment that holds the freezable fluid.

Claim 95: "1" should be --94-- so that "the collecting receptor" has proper antecedent basis.

Claim 96: "the absorbent material" in line 1 should be --the collecting receptor-- since the absorbent material in line 1 lacks antecedent basis.

Claim 105:

(a) "a second compartment" in line 7 should start with --the-- in order to properly refer to its antecedent spanning lines 4-5.

(b) "an" releasable cap in line 8 should be --a--.

Claim 120: In line 2, "first" compartment should be --second-- since it is the second compartment that holds the freezable fluid.

Claim 121: "105" should be --120-- so that "the collecting receptor" has proper antecedent basis.

Claim 122: "the absorbent material" in line 1 should be --the collecting receptor-- since the absorbent material in line 1 lacks antecedent basis.

Claim 132: "a second compartment" in line 7 should start with --the-- in order to properly refer to its antecedent spanning lines 4-5.

Claim 143: In line 2, "first" compartment should be --second-- since it is the second compartment that holds the freezable fluid.

Claim 144: "132" should be --143-- so that "the collecting receptor" has proper antecedent basis.

Claim 145: The claim is ok as written but is redundant. The redundancy being the phrase "wherein the absorbent material comprises an absorbent material capable of " which could read "wherein the absorbent material is capable of". Any amendment is optional.

Claim 144 (2nd occurrence):

- (a) The claim number should be --146--.
- (b) "the said fluid" spanning lines 3-4 should be --the fluid-- or --said fluid--.

Claim 156:

- (a) "an" releasable cap in line 6 should be --a--.
- (b) the "thaw" fluid in line 9 should be --thawed--, --thawing--, or --thawed or thawing--.

Claim 157: "sensor" in line 1 should be --indicator--.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 53 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,132,186 to Schmit.

Schmit discloses an indicator comprising:

a hollow tube having an open end and a closed end;

a piston (20) positioned inside the hollow tube, wherein the piston creates a first space (above 20) between a first side of the piston and the open end and a second space (below 20) between a second side of the piston and the closed end, the piston having a circumference in contact with the hollow tube (the tube's inner wall is the guide for the plunger 20);

a first fluid in the first space (in a broad sense, air is a gaseous fluid);

a force generating object (26) in the second space; and

media associated with the hollow tube to provide at least one indication of the occurrence of a temperature rise in an ambient in which the sensor is immersed (any of the pop-up indicators throughout the figures including those having icing as a fluid in figures 6 and 8),

further comprising movable laminar petals (32 of figures 2-3A which are colored or in this case metallized plastic strips) positioned within the hollow tube between the first space and the second space,

wherein the movable laminar petals exhibit an open position when the first fluid is in a non-frozen or partially thawed state (is met by air which is a gaseous fluid and is non-frozen).

4. Claims 63 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,132,186 to Manske et al.

Manske et al. discloses an indicator comprising:

a hollow tube (10 with upper half 18 and lower half 11) having an open end (top of 18, please note unmarked vent in 21) and a closed end (bottom of 11);

a piston (15) positioned inside the hollow tube, wherein the piston creates a first space (16 and 24) between a first side of the piston and the open end and a second space (12 and 14) between a second side of the piston and the closed end,

the piston having a circumference in contact with the hollow tube (as shown, column 2 lines 30-37);

a first fluid (17) in the first space; a force generating object (13) in the second space;

media (20) associated with the hollow tube to provide at least one indication of the occurrence of a temperature rise in an ambient in which the sensor is immersed, and

a collecting receptor (at 20 and 21) for collecting any first fluid expelled from the first space in the hollow tube wherein the collecting receptor further comprises an absorbent material (20) for absorbing any first fluid collected by the collecting receptor, and

wherein the absorbent material comprises an absorbent material capable of reacting with the first fluid to promote a color change of the absorbent material (column 2 lines 48-55).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmit.

Schmit teaches all that is claimed as discussed in the above rejections of claims 53 and 55 except for the movable laminar petals and the piston feature colors that are contrast each other.

Schmit discloses that the petals, i.e., strips, can be colored or metallized for a decorative display and suggests that the strips can take the form of petals of a flower (column 2 lines 10-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the petals and piston of colors that contrast, as suggested by Schmit, in order to create a proper looking flower, e.g. dandelion, sunflower, etc. with yellow petals, etc., and/or in order to create a highly noticeable decorative display.

Response to Arguments

7. Applicant's arguments filed November 5, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claim 73 is allowable.

9. Claims 1, 43, 66 and 80-157 would be allowable once the claim objections as set forth in this Office action are overcome.

10. Claim 54 would be allowable if rewritten to overcome the claim objections set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

11. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

12. The prior art made of record is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 disclose related indicators.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/554,041
Art Unit: 2859

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a long horizontal stroke extending to the right.

R. Alexander Smith
Primary Examiner
Art Unit 2859

January 10, 2008